

## HOW TO AVOID FORECLOSURE

When you miss your mortgage payments, foreclosure may occur. This is the legal means that your mortgage company can use to repossess (take over) your home. When this happens, you must move out of your house. If your property is worth less than the total amount you owe on your mortgage loan, your mortgage company or HUD could seek a deficiency judgment. If that happens, you not only lose your home, you also would owe your mortgage company or HUD an additional debt. Foreclosure or a deficiency judgment could seriously affect your ability to qualify for credit in the future. So you should avoid it if at all possible!

**DO NOT IGNORE THE LETTERS FROM YOUR MORTGAGE COMPANY.** If you are having problems making your payments, contact your mortgage company immediately. Explain your situation. Be prepared to provide them with financial information, such as your monthly income and expenses. Without this information, they may not be able to help. Stay in your home for now. You may not qualify for assistance if you abandon your property.

Some of your options include the following:

**Special Forbearance.** Your mortgage company may be able to arrange a repayment plan based on your financial situation. Your mortgage company may even provide for a temporary reduction or suspension of your payments. You may qualify for this if you have recently lost your job or your source of income or if you had an unexpected increase in living expenses. You must furnish information to your mortgage company to show that you would be able to meet the requirements of the new payment plan.

**Mortgage Modification.** You may be able to refinance the debt and/or extend the term of your mortgage loan. This may help you catch up by reducing the monthly payments to a more affordable level. You may qualify if you have recovered from a financial problem but your net income is less than it was before the default (failure to pay).

**Partial Claim.** Your mortgage company may be able to work with you to obtain an interest-free loan from HUD to bring your mortgage current. You may qualify if:

your loan is at least 4 months delinquent but no more than 12 months delinquent;

your mortgage is not in foreclosure; and

you are able to begin making full mortgage payments.

When your mortgage company files a Partial Claim, HUD will pay your mortgage company the amount necessary to bring your mortgage current. You must execute a Promissory Note, and a Lien will be placed on your property until the Promissory Note is paid in full. The Promissory Note is interest-free and will be due if you sell or leave your property, or when your mortgage matures.

**Pre-foreclosure sale.** This will allow you to sell your property and pay off your mortgage loan to avoid foreclosure and damage to your credit rating. You may qualify if:

the "as is" appraised value is at least 70% of the amount you owe and the sales price is 95% of the appraised value;

the loan is at least 2 months delinquent prior to the pre-foreclosure sale closing date; and

you are able to sell your house within 3 to 5 months (depending on what your mortgage company agrees to).

An additional benefit to this option is the assistance you will receive with the Seller-paid closing costs.

**Deed-in-lieu of foreclosure.** As a last resort, you may be able to voluntarily "give back" your property to the mortgage company. This won't save your house, but it will help your chances of getting another mortgage loan in the future. You can qualify if:

you are in default and don't qualify for any of the other options;

your attempts at selling the house before foreclosure were unsuccessful; and

you don't have another mortgage in default.

A housing counseling agency can help you determine which, if any, of these options may meet your needs. You should also discuss the situation with your mortgage company.

**One last thing, beware of scams!** Solutions that sound too simple or too good to be true usually are. If you're selling your home without professional guidance, beware of buyers who try to rush you through the process. Unfortunately, there are people who may try to take advantage of your financial difficulty. Be especially alert to the following:

**Equity skimming...** In this type of scam, a "buyer" approaches you, offering to get you out of financial trouble by promising to pay off your mortgage or give you a sum of money when the property is sold. The "buyer" may suggest that you move out quickly and deed the property to him or her. The "buyer" then collects rent for a time, does not make any mortgage payments, and allows the mortgage company to foreclose. Remember that signing over your deed to someone else does not necessarily relieve you of your obligation on your loan.

**Phony counseling agencies...** Some groups calling themselves "counseling agencies" may approach you and offer to perform certain services for a fee. These could well be services you could do for yourself, for free, such as negotiating a new payment plan with your mortgage company, or pursuing a pre-foreclosure sale. If you have any doubt about paying for such services call HUD-approved housing counseling agency. Do this before you pay anyone or sign anything.

Here are several precautions that should help you avoid being "taken" by a scam artist:

- ◆ Don't sign any papers you don't fully understand.
- ◆ Make sure you get all "promises" in writing.
- ◆ Beware of any loan assumption where you are not formally released from liability for your mortgage debt and contracts of sale.
- ◆ Check with a lawyer or your mortgage company before entering into any deal involving your home.

If you're selling the house yourself to avoid foreclosure, check to see if there are any complaints against the prospective buyer. You can contact your state's Attorney General, the State Real Estate Commission, or the local District Attorney's Consumer Fraud Unit for this type of information.

The Indiana Department of Financial Institutions, Division of Consumer Credit has many other credit related brochures available, such as:

- Answers to Credit Problems
- Applying for Credit
- At Home Shopping Rights
- Bankruptcy Facts
- Buried in Debt
- Car Financing Scams
- Charge Card Fraud
- Choosing A Credit Card
- Co-Signing
- Credit and Divorce
- Credit and Older Consumers
- Deep in Debt?
- Equal Credit Opportunity
- Fair Credit Reporting
- Fair Debt Collection
- Gold Cards
- Hang up on Fraud
- High Rate Mortgages
- Home Equity Credit Lines
- How to Avoid Bankruptcy
- Indiana Uniform Consumer Credit Code
- Look Before you Lease
- Mortgage Loans
- Repossession
- Reverse Mortgage Loans
- Rule of 78s – What is it?
- Scoring for Credit
- Shopping for Credit
- Using Credit Cards
- Variable Rate Credit
- What is a Budget?
- What is the DFI?

Call our toll-free number or write to the address on the cover for a copy of any of the brochures listed or for further consumer credit information. You can also access information at our web site on the Internet: <http://www.dfi.state.in.us>, then click on Consumer Credit.



# HOW TO AVOID FORECLOSURE



## DEPARTMENT OF FINANCIAL INSTITUTIONS

Consumer Credit Division  
402 West Washington Street, Room W066  
Indianapolis, Indiana 46204  
317-232-3955  
1-800-382-4880  
Web Site <http://www.dfi.state.in.us>

